IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

WP(C).No. 23324 of 2006(B)

OS.333/1994 of SUB COURT, MAVELIKKARA

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PETITIONER:

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1. VARGHESE,
KEETTICKAL VEEDU, CHEMMANADA DESOM, KARALAM P.O.,
THRISSUR, REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER, CHACKO KURIAKOSE, PUTHENVEETTIL HOUSE,
SOUTH MANORAMA, KOTTAYAM.

2. VINCENT K.JOSEPH,
KEETTICKAL VEEDU, CHEMMANDA DESOM, KARALAM P.O.,
THRISSUR.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:

N. PEETHAMBARAN,
CHENNITTA VEEDU, PERUNALA, KAYAMKULAM.

BY ADV. SRI.A.SHAFEEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True photostat copy of the Decree in O.S.No.333/1994 of Mavelikkara Sub Court, dated 28-9-2001.

Ext.P2: True photostat copy of the I.A.No.1292/2006 in O.S.No.333/1994 of Mavelikkara Sub-Court.

Ext.P3: True photostat copy of the petition in I.A.No.1291/2006 in O.S.No.333/1994.

Ext.P4: True photostat copy of the sale notice issued by Sub Court, Irinjalakuda dated 22-7-2006.

// True copy //

P.A. to Judge

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M.N.KRISHNAN, J.

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W.P.(C)NO.23324 OF 2006

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Dated this the 1st day of February 2007

JUDGMENT

This writ petition is filed seeking a direction to the Subordinate Judge's Court, Mavelikkara to dispose of I.A.1291 and 1292 of 2006 in O.S.333 of 1994 of that court. The prayer is to keep the further proceedings in the execution pending till the disposal of those interim applications. It is seen that defendants 1 and 3 in the original suit are the revision petitioners. It is contented that they were not served with proper notice and the application to set aside the ex-parte decree is filed with a delay of 1756 days. Whether there has been proper service of notice and whether there are sufficient grounds to condone delay or not are all matters which has to be decided by the court below where the petitions are pending. It is strongly contended by the decree holder that the 3rd defendant is none other than the father of the defendants 1 and 2 and it has come in evidence that the present writ petitioners have been informed about the pending of the petitions and they have been served by paper publications. So these matters are also to be

looked into by the court. Since the applications are pending and as Rs.30,000/- is already deposited, I feel in the interest of justice the writ petition can be disposed of as follows: (1) The Subordinate Judge, Mavelikkara is directed to dispose of I.A.1291 and 1292 of 2006 in O.S.333 of 1994 within a period of six weeks from the date of receipt of copy of the judgment and (2) the further proceedings with respect to the execution of the decree shall be deferred till the final decision is taken on these interim applications.

Writ petition is disposed of.

M.N.KRISHNAN, JUDGE

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